

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:12cr109
	§	
MICHAEL ANTOHNY TIJERINA (1)	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on February 17, 2015 to determine whether Defendant violated his supervised release. Defendant was represented by Robert Arrambide. The Government was represented by Andrew Stover.

On November 13, 2013, Defendant was sentenced by the Honorable Thad Heartfield, United States District Judge, to a sentence of 26 months imprisonment concurrent with Judgement in the 296th District Court of Collin County, Texas, followed by a 2-year term of supervised release, for the offense of Felon in Possession of a Firearm. Defendant began his term of supervision on January 6, 2014.

On January 13, 2015, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (the "Petition") (Dkt. 47). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall refrain from any unlawful use of a controlled substance; (2) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related

to any controlled substance, except as prescribed by a physician; (3) Defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer; (4) Defendant shall participate in a program of testing and treatment for drug abuse, under the guidance and direction of the United States Probation Office, until such time as Defendant is released from the program by the probation officer; (5) Defendant shall report to the probation officer as directed by the Court or probation officer, and shall submit a truthful and complete written report within the first five days of each month; (6) Defendant shall pay a \$100 special assessment due immediately; and (7) Defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons.

The Petition alleges that Defendant committed the following violations: (1) Defendant submitted a urine specimen which tested positive for cocaine on April 8, 2014, May 6, 2014, and September 9, 2014; (2) During an office visit conducted on September 9, 2014, Defendant verbally admitted to consuming cocaine with others who were also consuming the substance; (3) Defendant failed to report for drug testing with Pillar counseling, in Plano, Texas, as directed on March 22, April 19, June 7 and 28, 2014. He failed to report for drug testing at the U.S. Probation Office, in Plano, Texas, on September 16 and 20, 2014. He failed to report for drug testing with Bob Alterman, in McKinney, Texas, on October 1, 6, 10 and 29; November 4, 12, 18 and 21; and December 15, 2014. Additionally, on or about December 17, 2014, Defendant was unsuccessfully discharged from substance abuse treatment with Pillar Counseling Services due to lack of attendance; (4) Defendant failed to report to the probation office on October 27, 2014. He failed to submit a monthly report for the month of November 2104; (5) Defendant failed to pay the special

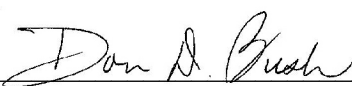
assessment in full since his release from imprisonment on January 6, 2014; (6) Defendant failed to gain employment at the inception of supervision. Though he gained employment during the months of July 2014 through October 2014, he failed to regain stable employment.

At the hearing, Defendant entered a plea of true to allegations One and Two. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the February 17, 2015 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of eleven (11) months with no supervised release to follow. The Court further recommends Defendant's sentence be carried out in the Bureau of Prisons facility located in Seagoville, Texas, if appropriate.

SIGNED this 10th day of March, 2015.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE